

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

LORNA M. NUGENT,

Plaintiff

v.

**CAROLYN W. COLVIN, Acting
Commissioner of Social Security,**

Defendant

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No. 1:14-cv-243-GZS

RECOMMENDED DISMISSAL

The plaintiff filed this appeal from a decision of the defendant denying her application for Social Security benefits on June 16, 2014. ECF No. 1. On August 18, 2014, the defendant filed the administrative record. ECF No. 11. A procedural order issued on that date, requiring the plaintiff to file a statement of errors and a fact sheet on a form provided by the Clerk's Office no later than October 17, 2014, in accordance with this court's Local Rule 16.3. Having received neither document, the court, on October 23, 2014, issued an order to show cause directing the plaintiff to show good cause no later than November 6, 2014, why this case should not be dismissed in light of her failure to file the required documents by the deadline. ECF No. 13.

On October 24, 2014, the plaintiff filed a request for a one-month extension of the deadline to November 17, 2014, ECF No. 14, in response to which the court terminated the order to show cause and granted the requested extension, instructing the plaintiff to "file both documents by [November 17, 2014] or risk the dismissal of this action for failure to prosecute in a timely manner." ECF No. 15.

It is now more than 75 days after the extended deadline. The plaintiff has not filed either a statement of material facts or a completed fact sheet, nor has she sought an additional extension of time in which to do so. While a court should be sparing in its use of dismissal as a sanction for failure to prosecute a civil action, that principle loses force when the litigant has ignored, as the plaintiff has here, an express warning that failure to comply with an order may result in the dismissal of her claim. *Jordan v. Colvin*, Civil Action No. 5:13-cv-29832, 2014 WL 6774177, at *2 (S.D. W.Va. Dec. 1, 2014).

Accordingly, I recommend that the complaint be **DISMISSED** for failure to prosecute. *See, e.g., Albright v. Commissioner of Soc. Sec.*, No. 3:06cv967 (MRK) (WIG), 2007 WL 1052042, at *1 (D. Conn. Mar. 1, 2001); *see generally Dupont v. Wal-Mart Stores, Inc.*, No. 1:10-cv-00229-JAW, 2011 WL 709887, at *1 (D. Me. Jan. 28, 2011).

NOTICE

A party may file objections to those specified portions of a magistrate judge's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) for which de novo review by the district court is sought, together with a supporting memorandum, within fourteen (14) days after being served with a copy thereof. A responsive memorandum shall be filed within fourteen (14) days after the filing of the objection.

Failure to file a timely objections shall constitute a waiver of the right to de novo review by the district court and to appeal the district court's order.

Dated this 2nd day of February, 2015.

/s/ John H. Rich III
John H. Rich III
United States Magistrate Judge